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UNCLAS SECTION 01 OF 03 GUATEMALA 001417

SIPDIS

DEPT FOR EB/IFD/OIA/ATBRUYAN AND L/CID/JNICOL  
TREASURY FOR DO/CHRISTOPOLOUS  
USDOC FOR ITA/ATAYLOR  
USTR FOR FHUELDEL  
PASS OPIC FOR O'SULLIVAN

E.O. 12958: N/A

TAGS: [RINV](#) [EFIN](#) [PGOV](#) [KIDE](#) [CASC](#) [OPIC](#)

SUBJECT: GUATEMALA'S 2004 REPORT ON INVESTMENT DISPUTES AND  
EXPROPRIATION CLAIMS

REF: A. STATE 78697

1B. OLSON/BRYAN/NICOL E-MAILS

11. Land invasions (squatter takeovers) of large farmlands are fairly common in Guatemala. Private sector organizations complained that the squatters sometimes acted with government complicity during the four-year administration of President Portillo, who left office in January 2004. The new administration of President Oscar Berger has declared its intention to evict squatters where property rights are clearly established, and it has begun to follow thorough in several cases. However, the issue is highly politicized, pitting defense of private property rights against continued calls for major land reform to address social injustice. In the process, some groups are blurring the distinction between complex historical cases, where indigenous groups are asserting traditional claims and written records are missing or inadequate, and organized invasions of titled land that have taken place within the last couple of years. Even in the seemingly clearest of cases, the justice system is slow and its rulings are often ignored. Post is not aware of any new cases involving U.S. citizens over the past year and updates, below, information reported in 2003.

12. a) Claimant A

b) 2001

c) Claimant A purchased approximately 3,825 hectares of land near the Honduran border in Izabal Department in 1991, intending to raise cattle and harvest timber. Claimant reports that approximately 50 armed peasants invaded the property on 16 February 2001, taking over 100 hectares of improved pasture. Per a June 4, 2002 communication from Claimant, the squatters by that time controlled more than 700 hectares of land. Claimant alleged that the standing Governor of the State of Izabal, Patricia Quinto, demanded that Claimant provide land titles to the squatters. Invaders have allegedly since taken over most of the property, stealing cattle and timber and destroying improvements. Some of the invaders allegedly are armed with fully automatic assault weapons and have fired upon Claimant's administrator. Claimant has filed numerous complaints with the district attorney but has had no effective response. A penal court ordered that a civil court must first determine ownership of the property based on a claim by the squatters that they have historical rights to the land, notwithstanding Claimant's possession of legal title to the property. Claimant and peasant activists have complained of being threatened by heavily armed men who they thought were in the employ of each other, but it appears that the armed groups are more likely linked to a known and dangerous local narcotics trafficking organization that is seeking control of the property.

Embassy officials raised this case with the former President of Guatemala and with several of his cabinet officials. A member of the inter-agency commission on land disputes told Embassy officers in March, 2002 that land registry records from the area had been destroyed during the first half of the twentieth century, complicating the task of verifying or rejecting claims of traditional rights to the land asserted by some of the squatters. The GOG at the time suggested that Claimant seek a negotiated solution with the squatters, but Claimant A and Embassy officers responded that the claimant's title should be respected in the absence of any evidence that the title was improperly granted. Since the inauguration of the Berger administration in January 2004, Embassy officers have raised the matter with the Minister and Vice Minister of Government, who are responsible for the National Civilian Police. Most recently, the Ambassador discussed the case on two occasions with the current Attorney General, who agreed to meet with Claimant in the near future. The Attorney General had told an Embassy Officer in May 2004 that he had ordered his staff to research earlier judicial findings before deciding what action to take.

Claimant A estimates the value of confiscated land at \$7 million, and that lost revenues exceeds \$500,000. We are

informed that, for tax purposes, the land has been valued at \$150,000.

a) Claimant B

b) 1998

c) Claimant B received a fifty-year concession in 1997 to operate and expand Guatemala's state owned and controlled railroad system, which was badly deteriorated and had fallen into disuse. The government was obliged to clear the railroad's right of way of squatters in Guatemala City and along the route to the Atlantic at the time of the start-up of privatized railroad service by Claimant in 1998. The government also removed some squatters along the Pacific route and the North Coast line to Mexico, which are not yet in operation. However, the number of squatters along railroad lines has multiplied since, as squatters return to areas cleared by the government and newcomers join their ranks. Claimant has not yet begun operations in the most affected areas and has largely discontinued efforts to obtain eviction orders while concentrating on its service between Guatemala City and the Atlantic ports. Claimant is currently seeking a consultant to prepare a feasibility study to obtain financing for the repair and improvement of the tracks on the North Coast so that it can provide the connection to Mexico and the Pacific port. The squatter invasions, if not addressed quickly and effectively at the appropriate moment, could prevent the North Coast service from being reopened, which in turn would effectively deny Claimant's rights under its concession contract.

Claimant B contacted Embassy in May 2002 to provide a briefing on the problem and to discuss possible future assistance in resolving it, should the problem not be resolved by the GOG before work on the route to Mexico begins. Embassy officers raised the matter with senior officials of the Ministry of Economy and with the Economic and Foreign Trade Committee of the Congress. The Embassy is in periodic contact with Claimant and will continue to provide advocacy services as needed.

a) Claimants C

b) 2002

c) Claimants C, brothers, inherited land in Alta Verapaz department acquired by their family in the 1800s and first half of the 1900s. There are a number of discrepancies in title documents pertaining to parts of the land that have not been adequately reconciled, but, with one exception, the discrepancies relate to historical divisions within what are now larger farms and do not cast doubt on the claimants' ownership rights. One entry in the national registry from the 1800s grants small parcels in the area to local families from that era, but it appears that the parcels granted and those actually settled by the local families' descendants are substantially different. A definitive settlement is under negotiation.

In 2002, the mayor of a village adjacent to one of claimants' properties demanded unrestricted access to a road the claimants had built on their land that greatly improved access to the village. The claimants have allowed the road to be used during daylight hours in return for a contribution toward maintaining the road but have blocked access at night, citing security concerns.

The situation appeared to deteriorate significantly when a national peasant organization, CONIC, began organizing opposition to the nightly road closure and allegedly began encouraging invasion of several of the claimants' farms, including environmentally sensitive watershed areas. The invasions have included the ransacking of claimants' facilities and have prevented normal operation of the claimants' coffee growing business. One of the claimants filed criminal charges against CONIC organizers but agreed to suspend further action pending the results of further negotiations. The negotiations include compensation for damaged property and are sponsored by government land dispute agency, CONTIERRA. CONTIERRA agreed to put a special priority on resolving this case at the request of the Embassy. Embassy officers met on several occasions with CONTIERRA's national management or with its Alta Verapaz representatives, as well as with CONIC leaders and attorneys, to underscore Embassy's concern that the property rights of U.S. citizens be respected and applicable Guatemalan laws be enforced.

Claimants note that recurring invasion of duly registered private property is a felony offense requiring ex officio action by state law enforcement authorities. They claim that the police have failed to evict invaders on their own and have not enforced court eviction orders. Embassy brought this to the attention of the Vice Minister of Government (Interior) in February 2003. A court order was issued in May

2003 to evict occupiers of one farm (the one with the access road to a neighboring village), and the Claimant received assurances from the Ministry of Government that 200 policemen would be sent to execute the order. The evictions did not take place. Embassy brought the cases to the attention of the Vice Minister of Government of the newly inaugurated Berger Administration in February 2004 and two subsequent occasions. The Vice Minister agreed to receive the Claimants, but contact has yet to be established.

Embassy has not had direct contact with either Claimant since April, 2004. The government has recently moved to evict squatters from other land in Alta Verapaz, which is being cited as a principal reason for nationwide peasant demonstrations that have been called for June 8 and 9. Claimants have chosen not to visit Guatemala City as a result, according to an associate. A U.S. private voluntary organization that operates in the region reports that mediation efforts it is undertaking together with CARE and CONTIERRA appear to be progressing and that there have been no recent acts of violence. CONIC has been included in the negotiations. An associate of the Claimants confirms that the situation has been relatively calm in recent weeks.

13. Claimant A: Margaret Argudo, American Citizen, no Privacy Act Waiver (PAW).

Claimant B: Ferrovias Guatemala, A local subsidiary of a U.S. company, no PAW.

Claimants C: Carlos Ardebol and Roger Perez Ardebol, American Citizens, no PAW.

HAMILTON